

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH W. LONG, JR. : CIVIL ACTION
 :
v. :
 :
BOROUGH OF DOWNINGTOWN, et al. : NO. 13-3921

ORDER

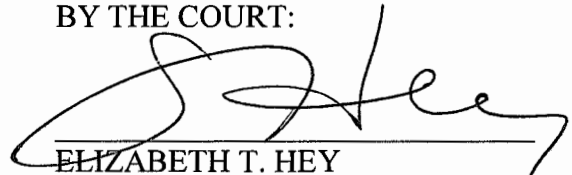
AND NOW, this 31st day of January 2014, upon consideration of a motion to dismiss Plaintiff's Amended Complaint filed by Defendants Borough of Downingtown, Police Chief James McGowan, and Patrol Officer Pamela Fentner (collectively "Borough Defendants") (Doc. 10), and Plaintiff's response thereto (Doc. 21), IT IS HEREBY ORDERED that the motion is GRANTED IN PART AND DENIED IN PART as follows:

1. Plaintiff has withdrawn his federal excessive force claim and his supplemental state law claims for assault, battery, intentional infliction of emotional distress and abuse of process, and therefore those claims are DISMISSED WITH PREJUDICE.
2. The motion is GRANTED to the extent that all claims against Defendant McGowan, as well as the Monell claim asserted against the Borough, are DISMISSED WITHOUT PREJUDICE. Plaintiff's federal civil rights claims under the First and Fourteenth Amendments, as well as any procedural due process claim under the Fourth Amendment, are DISMISSED WITHOUT PREJUDICE. The civil conspiracy claim is DISMISSED WITHOUT PREJUDICE insofar as it alleges a conspiracy between Fentner and FEMA employees Duffey and Hill.
3. The motion is DENIED as to Plaintiff's federal civil rights claims under the Fourth Amendment (asserted in the First Cause of Action), supplemental state law claims against Defendant Fentner for false arrest, false imprisonment and malicious prosecution (asserted in the Second and Third Causes of Action), and civil conspiracy insofar as it alleges a conspiracy between Fentner and Taraschi (asserted in the Fourth Cause of Action).

IT IS FURTHER ORDERED that Plaintiff shall have 14 days from the date of this Order, or until February 14, 2014, to file a Third Amended Complaint attempting to cure the deficiencies identified in this Memorandum with respect to parties and claims dismissed without prejudice.⁵

⁵ Plaintiff previously filed a Second Amended Complaint, but it was stricken because Plaintiff failed to obtain consent of the Defendants or leave of court. See Docs. 13 & 14.

BY THE COURT:



ELIZABETH T. HEY
UNITED STATES MAGISTRATE JUDGE